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## BEFORE THE ARIZONA CORPORATION COMMISSION

## COMMISSIONERS

Arizona Corporation Commission

DOCKETED

OCT 30 2009

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA C. KENNEDY  
BOB STUMP

DOCKETED BY

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IN THE MATTER OF THE JOINT APPLICATION  
GLOBAL CROSSING TELECOMMUNICATIONS,  
INC., GLOBAL CROSSING NORTH AMERICAN  
NETWORKS, INC., GLOBAL CROSSING LOCAL  
SERVICES, INC., AND GLOBAL CROSSING  
TELEMANAGEMENT, INC., FOR APPROVAL  
TO ENCUMBER ASSETS IN CONJUNCTION  
WITH NEW FINANCING.

DOCKET NO. T-02438B-09-0363  
DOCKET NO. T-02761B-09-0363  
DOCKET NO. T-03539A-09-0363  
DOCKET NO. T-03658A-09-0363

DECISION NO. 71324ORDER

Open Meeting  
October 20 and 21, 2009  
Phoenix, Arizona

## BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 17, 2009, Global Crossing Telecommunications, Inc. ("GCTI"), Global Crossing North American Networks, Inc. ("GCNAN"), Global Crossing Local Services, Inc. ("GCLS"), and Global Crossing Telemanagement, Inc. ("GCTM," and together with GCTI, GCNAN, and GCLS, the "Applicants"), filed with the Commission an application for approval to pledge their Arizona assets as security for certain debt financing arrangements up to \$1 billion, pursuant to A.R.S. § 40-285 ("Application").<sup>1</sup>

2. The Applicants caused notice of the Application to be published in the *Arizona Business Gazette* on August 31, 2009.

3. On September 22, 2009, the Commission's Utilities Division Staff ("Staff") filed a

<sup>1</sup> The Applicants note that the Commission previously approved the Applicants' provision of security in connection with financing of up to \$200 million in Decision No. 69345 (February 20, 2007).

1 Staff Report recommending conditional approval of the request for encumbrance of assets.

2 4. GCTI is a Michigan corporation authorized by the Commission to provide long  
3 distance telecommunications service in Arizona under Decision No. 54505 (May 1, 1985).

4 5. GCNAN is a Delaware corporation authorized by the Commission to provide  
5 intrastate resold telecommunications service in Arizona under Decision No. 60143 (April 17, 1997).

6 6. GCLS is a Michigan corporation authorized by the Commission to provide  
7 competitive facilities-based local exchange telecommunications service in Arizona under Decision  
8 No. 61622 (April 1, 1999).

9 7. GCTM is a Wisconsin corporation authorized by the Commission to provide resold  
10 long distance telecommunications service in Arizona under Decision No. 61213 (October 29, 1998).

11 8. The Applicants are non-dominant telecommunications providers and provide service  
12 in all 50 states and the District of Columbia. The Applicants are also authorized by the Federal  
13 Communications Commission to provide interstate telecommunications services.

14 9. Staff states that there are no compliance issues with any of the Applicants. -

15 10. The Applicants are wholly-owned indirect subsidiaries of Global Crossing North  
16 America, Inc. ("GCNA"), a Delaware corporation, which, in turn, is a wholly-owned indirect  
17 subsidiary of Global Crossing Holdings Limited ("Holdings"), an exempt company with limited  
18 liability organized under the laws of Bermuda. Holdings is a wholly-owned direct subsidiary of  
19 Global Crossing Limited ("Parent"), an exempt company with limited liability organized under the  
20 laws of Bermuda.

21 11. The Applicants seek approval from the Commission to provide their guarantee, to  
22 serve as borrowers or co-borrowers, or to otherwise provide security in connection with financings of  
23 up to \$1 billion. The financings are for the benefit of GCNA, Parent, and Holdings. (GCNA, Parent,  
24 and Holdings are, together with the Applicants, the "Borrowers".)

25 12. The Borrowers will initially secure \$650 million in aggregate principal of senior  
26 secured notes ("Senior Notes") through several financing arrangements with banks, other financial  
27 institutions and/or other types of investors. Along with the \$650 million in senior secured notes, the  
28 Borrowers may borrow an additional \$350 million funds, for up to a total of \$1 billion.

1        13.    The Senior Notes are expected to mature in 2015, and any additional notes issued will  
2 have maturity dates of more than one year.

3        14.    The Applicants note that the interest rate will likely be the market rate for similar  
4 financings and will not be determined until such time as each financing is finalized; however, the  
5 Senior Notes will bear interest at a fixed rate.

6        15.    The Applicants state they expect the Senior Notes will be supported by the Borrowers'  
7 guarantees and secured by a pledge of the outstanding equity interests in, and a security interest in  
8 substantially all the assets of, each of the guarantors.

9        16.    The Application states that the proceeds will be used to repay existing debt and for  
10 capital expenses, working capital and general corporate purposes, which could include the acquisition  
11 of other telecommunications companies and/or telecommunications assets.

12       17.    According to the Applicants, their obligations under any security documents will not  
13 be consummated until all required regulatory approvals are obtained.

14       18.    The Applicants assert that participation in the financing arrangements will not result in  
15 any changes to their management, day-to-day operations or provision of service, and will be entirely  
16 transparent to their customers.

17       19.    The Applicants also assert that the proposed financing will serve the public interest in  
18 that it will allow the Applicants to introduce new services in Arizona, allow consumers to benefit  
19 from competitive services and will promote competition.

20       20.    Staff notes that Arizona Administrative Code ("A.A.C.") R14-2-804(B) provides that  
21 a Class A Utility may not obtain a financial interest in any affiliate not regulated by the Commission,  
22 or guarantee or assume the liabilities of such an affiliate without Commission approval. Under  
23 A.A.C. R-14-2-804(C), the Commission must review the transaction to determine if it would impair  
24 the financial status of the public utility, otherwise prevent it from attracting capital at fair and  
25 reasonable terms, or impair the ability of the public utility to provide safe, reasonable, and adequate  
26 service.

27       21.    Staff determined that under A.A.C. R14-2-804, the proposed transactions will not  
28 impair the Applicants' financial status, prevent them from attracting capital at fair and reasonable

1 terms, or impair the ability of the Applicants to provide safe, reasonable and adequate service.

2 22. A.R.S. § 40-301 provides that foreign public service corporations providing  
3 communications services within the state whose physical facilities are also used in providing  
4 communications service in interstate commerce are not required to obtain authorization from the  
5 Commission to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness  
6 payable at periods of more than twelve months. Because the Applicants are each a foreign public  
7 service corporation whose physical facilities are also used in providing communications services in  
8 interstate commerce, pursuant to A.R.S. § 40-301(D), the Applicants' proposed financing is exempt  
9 from Commission approval.

10 23. However, A.R.S § 40-285 requires public service corporations to obtain Commission  
11 authorization to encumber certain utility assets. According to Staff, the statute serves to protect  
12 captive customers from a utility's disposition of assets that are necessary for the provision of service,  
13 thereby preventing any service impairment due to disposal of critical assets necessary to provide  
14 service.

15 24. Based on its review of the proposed transaction, Staff determined that the pledge of  
16 the Applicants' Arizona assets would not impair the availability of service to the customers since the  
17 Applicants provide competitive services that are available from alternative service providers.  
18 However, Staff recommends that, because customers who have prepaid for service or made deposits  
19 may have exposure to losses, any authorization for encumbrances should include customer protection  
20 for prepayments and deposits.

21 25. Staff recommends approval of the Applicants' request to pledge assets as a guarantee  
22 or to provide other forms of security for \$1 billion in debt subject to the condition that all Arizona  
23 customer deposits and prepayments be excluded from encumbrance or, in the alternative, be secured  
24 by a bond or an irrevocable sight draft letter of credit, which is not included in the pledged collateral.

25 26. Staff recommends that the Applicants be authorized to engage in any transactions and  
26 to execute or cause to be executed any documents necessary to effectuate the authorizations requested  
27 in the Application.

28 27. Staff also recommends that the Applicants file with Docket Control, as a compliance

item in this matter, a copy of the loan documents within 60 days of the execution of any financing transaction authorized herein.

28. On October 14, 2009, the Applicants filed exceptions to the Recommended Order issued in this matter. The Applicants request that, rather than filing copies of the executed loan documents with Docket Control, the Applicants be permitted to provide the documents to the Utilities Division pursuant to a protective agreement, as the documents contain confidential information. The Applicants noted that they have discussed this modification with Staff's counsel and Staff stated they have no objections.

29. The requested modification is reasonable and shall be adopted. The Applicants should also file with Docket Control simultaneously with the provision of the documents to Utilities Division, as a compliance item in this docket, a notice stating that the executed loan documents were submitted to Utilities Division in compliance with this Decision.

30. Staff's recommendations, as modified, are reasonable and should be adopted.

### CONCLUSIONS OF LAW

1. Applicants are public service corporations within the meaning of Article XV of the Arizona Constitution, A.R.S. § 40-285.

2. The Commission has jurisdiction over the Applicants and the subject matter of the Application.

3. Notice of the Application was given in accordance with the law.

4. The encumbrance approved herein pursuant to A.R.S. § 40-285 is for the purposes stated in the Application and is reasonably necessary for those purposes.

5. Pursuant to A.A.C. R14-2-804 the proposed transactions will not impair the financial status of the Applicants, prevent them from attracting capital at fair and reasonable terms, or impair the ability of the Applicants to provide safe, reasonable and adequate service.

6. Pursuant to A.R.S. § 40-301, Commission approval of the financing is not required.

7. Staff's recommendations, as modified, are reasonable and shall be adopted.

### ORDER

IT IS THEREFORE ORDERED that the Application by Global Crossing

1 Telecommunications, Inc., Global Crossing North American Networks, Inc., Global Crossing Local  
2 Services, Inc., and Global Crossing Telemanagement, Inc., for authorization to encumber assets as  
3 security for debt financing up to \$1 billion as provided for herein is granted, subject to the condition  
4 that either all Arizona customer deposits and prepayments are excluded from encumbrance or, in the  
5 alternative, are secured in the amount of the customer deposits and prepayments either by a  
6 performance bond or an irrevocable sight draft letter of credit, which are not included in the pledged  
7 collateral.

8 IT IS FURTHER ORDERED that Global Crossing Telecommunications, Inc., Global  
9 Crossing North American Networks, Inc., Global Crossing Local Services, Inc., and Global Crossing  
10 Telemanagement, Inc., shall, within 60 days of the effective date of this Decision, file with Docket  
11 Control, as a compliance item in this docket, either a statement that all Arizona customer deposits and  
12 prepayments are excluded from encumbrance, or copies of the performance bond or irrevocable sight  
13 draft letter of credit in the amount of the customer deposits and prepayments, and provide the original  
14 performance bond or irrevocable sight draft letter of credit to the Commission's Business Office for  
15 safekeeping.

16 IT IS FURTHER ORDERED that Global Crossing Telecommunications, Inc., Global  
17 Crossing North American Networks, Inc., Global Crossing Local Services, Inc., and Global Crossing  
18 Telemanagement, Inc., are hereby authorized to engage in any transactions and to execute or cause to  
19 be executed any documents in order to effectuate the authorizations granted herein.

20 IT IS FURTHER ORDERED that Global Crossing Telecommunications, Inc., Global  
21 Crossing North American Networks, Inc., Global Crossing Local Services, Inc., and Global Crossing  
22 Telemanagement, Inc., shall provide to the Utilities Division, within 60 days of the effective date of  
23 this Decision, copies of the executed loan documents.

24 ...

25 ...

26 ...

27 ...

28 ...

IT IS FURTHER ORDERED that simultaneously with the provision of the executed loan documents to the Utilities Division, Global Crossing Telecommunications, Inc., Global Crossing North American Networks, Inc., Global Crossing Local Services, Inc., and Global Crossing Telemangement, Inc., shall file with Docket Control, as a compliance item in this docket, a notice stating that the executed loan documents were submitted to the Utilities Division in compliance with this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 30<sup>th</sup> day of Oct, 2009.

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

SERVICE LIST FOR:

GLOBAL CROSSING TELECOMMUNICATIONS, INC.,  
GLOBAL CROSSING NORTH AMERICAN NETWORKS,  
INC., GLOBAL CROSSING LOCAL SERVICES, INC., AND  
GLOBAL CROSSING TELEMAGEMENT, INC.

DOCKET NOS.:

T-02438B-09-0363, T-02761B-09-0363, T-03539A-09-0363,  
and T-03658A-09-0363

Joan S. Burke, Esq.  
OSBORN MALEDON, P.A.  
2929 North Central, Suite 2100  
Phoenix, Arizona 85012

Melissa S. Conway, Esq.  
KELLEY DRYE & WARREN, LLP  
3050 K Street, N.W. Suite 400  
Washington, D.C. 20007

Michael J. Shortley, III, Esq.  
Vice President and General Counsel  
GLOBAL CROSSING NORTH AMERICA, INC.  
225 Kenneth Drive  
Rochester, New York 14623

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Steven M. Olea, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007